

# SENATE, No. 103

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**Co-Sponsored by:**

**Senator Oroho**

**SYNOPSIS**

Limits eligibility of certain public employees for health care benefits; prohibits those so limited from receiving payments for waiving benefits.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 6/28/2019)**

1 AN ACT concerning eligibility of certain public employees for  
2 health care benefits provided by public employers, amending  
3 various parts of the statutory law, and supplementing P.L.1961,  
4 c.49 (C.52:14-17.25 et seq.), P.L.1983, c.313 (C.40A:5A-1 et  
5 seq.), and chapter 16 of Title 18A of the New Jersey Statutes.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. Section 3 of P.L.1979, c.391 (C.18A:16-14) is amended to  
11 read as follows:

12 3. The contract shall exclude from eligibility:

13 a. Employees and dependents, active or retired, who are  
14 otherwise eligible for coverage but who, although they meet the  
15 age eligibility requirement of the Federal Medicare Program, are  
16 not covered by the complete Federal program;

17 b. Any class or classes of employees who are eligible for like or  
18 similar coverage under another group contract covering such class  
19 or classes of employees.

20 Commencing 90 days after the effective date of section 1 of  
21 section 1 of P.L. , c. (pending before the Legislature as this  
22 bill): if an employee eligible for health care benefits coverage while  
23 holding a position, office, or employment with a local board of  
24 education also is eligible for health care benefits coverage under a  
25 health care benefits plan or program because of service in any other  
26 public position, office, or employment of this State, the employee  
27 shall select coverage under only one such plan or program; and if an  
28 employee eligible for health care benefits coverage while holding a  
29 position, office, or employment with a local board of education also  
30 is eligible for health care benefits coverage under a health care  
31 benefits plan or program because of service by the employee's  
32 spouse in any public position, office, or employment of this State,  
33 the employee shall select coverage with the employer or shall select  
34 coverage with the plan or program of the spouse's employer, but not  
35 both, and may be eligible for a payment for a waiver of the  
36 coverage if the employer is outside of the School Employees'  
37 Health Benefits Program in accordance with section 8 of P.L. ,  
38 c. (C. )(pending before the Legislature as this bill). This  
39 paragraph shall apply also when the health care benefits coverage is  
40 provided through an insurance fund or joint insurance fund or in  
41 any other manner. This paragraph shall apply to any agency, board,  
42 commission, authority, or instrumentality of a local board of  
43 education. Commencing 90 days after the effective date of section  
44 1 of P.L. , c. (pending before the Legislature as this bill), an  
45 employee described in this paragraph with more than one position,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 office, or employment shall not be eligible for a continuation of any  
2 payment in consideration of filing a waiver of coverage granted  
3 prior thereto or for any waiver of coverage and payment thereafter.  
4 (cf: P.L.1979, c.391, s.3)

5  
6 2. N.J.S.40A:10-18 is amended to read as follows:

7 40A:10-18. Exclusions from coverage

8 The contract shall exclude from eligibility:

9 a. Employees and dependents, active or retired, who are  
10 otherwise eligible for coverage but who, although they meet the  
11 age eligibility requirement of the Federal Medicare Program, are  
12 not covered by the complete Federal program;

13 b. Any class or classes of employees who are eligible for like or  
14 similar coverage under another group contract covering the class or  
15 classes of employees.

16 Commencing 90 days after the effective date of section 2 of  
17 P.L. , c. (pending before the Legislature as this bill): if an  
18 employee eligible for health care benefits coverage while holding a  
19 position, office, or employment with a local unit or agency thereof  
20 also is eligible for health care benefits coverage under a health care  
21 benefits plan or program because of service in any other public  
22 position, office, or employment of this State, the employee shall  
23 select coverage under only one such plan or program; and if an  
24 employee eligible for health care benefits coverage while holding a  
25 position, office, or employment with a local unit or agency thereof  
26 also is eligible for health care benefits coverage under a health care  
27 benefits plan or program because of service by the employee's  
28 spouse in any public position, office, or employment of this State,  
29 the employee shall select coverage with the employer or shall select  
30 coverage with the plan or program of the spouse's employer, but not  
31 both, and may be eligible for a payment for a waiver of the  
32 coverage if the employer is outside of the State Health Benefits  
33 Program in accordance with 37 of P.L.1995, c.259 (C.40A:10-  
34 17.1). This paragraph shall apply also when the health care benefits  
35 coverage is provided through an insurance fund or joint insurance  
36 fund or in any other manner. This paragraph shall apply to any  
37 agency, board, commission, or instrumentality of a local  
38 unit. Commencing 90 days after the effective date of section 2 of  
39 P.L. , c. (pending before the Legislature as this bill), an  
40 employee described in this paragraph with more than one position,  
41 office, or employment shall not be eligible for a continuation of any  
42 payment in consideration of filing a waiver of coverage pursuant to  
43 section 37 of P.L.1995, c.259 (C.40A:10-17.1) granted prior thereto  
44 or for any waiver of coverage and payment thereafter.

45 (cf: N.J.S.40A:10-18)

46  
47 3. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended to  
48 read as follows:

1 37. Notwithstanding the provisions of any other law to the  
2 contrary, a county, municipality or any contracting unit as defined  
3 in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a  
4 contract providing group health care benefits to its employees  
5 pursuant to N.J.S.40A:10-16 et seq., may allow any employee who  
6 is eligible for other health care coverage, including an employee  
7 described in N.J.S.40A:10-18 who is required to select coverage  
8 with the employer or the spouse's employer, to waive coverage  
9 under the county's, municipality's or contracting unit's plan to which  
10 the employee is entitled by virtue of employment with the county,  
11 municipality or contracting unit. The waiver shall be in such form  
12 as the county, municipality or contracting unit shall prescribe and  
13 shall be filed with the county, municipality or contracting unit. A  
14 county, municipality or any contracting unit shall reauthorize each  
15 year the allowance to waive coverage. In consideration of filing  
16 such a waiver, a county, municipality or contracting unit may pay to  
17 the employee, but not to an elected official whose term of office  
18 commenced after the effective date of section 3 of P.L. \_\_\_\_\_,  
19 c. (pending before the Legislature as this bill), annually an  
20 amount, to be established in the sole discretion of the county,  
21 municipality or contracting unit, which shall not exceed 50% of the  
22 amount saved by the county, municipality or contracting unit  
23 because of the employee's waiver of coverage, and, for a waiver  
24 filed on or after the effective date of P.L.2010, c.2, which shall not  
25 exceed 25%, or \$5,000, whichever is less, of the amount saved by  
26 the county, municipality or contracting unit because of the  
27 employee's waiver of coverage. An employee who waives coverage  
28 shall be permitted to resume coverage under the same terms and  
29 conditions as apply to initial coverage if the employee ceases to be  
30 covered through the employee's spouse for any reason, including,  
31 but not limited to, the retirement or death of the spouse or divorce.  
32 An employee who resumes coverage shall repay, on a pro rata basis,  
33 any amount received which represents an advance payment for a  
34 period of time during which coverage is resumed. An employee  
35 who wishes to resume coverage shall file a declaration with the  
36 county, municipality or contracting unit, in such form as the county,  
37 municipality or contracting unit shall prescribe, that the waiver is  
38 revoked. The decision of a county, municipality or contracting unit  
39 to allow its employees to waive coverage and the amount of  
40 consideration to be paid therefor shall not be subject to the  
41 collective bargaining process.

42 (cf: P.L.2010, c.2, s.18)

43  
44 4. Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended to  
45 read as follows:

46 7. a. The coverage provided solely for employees shall, subject  
47 to the provisions below, automatically become effective for all  
48 eligible employees from the first day on or after the effective date

1 of the program on which they satisfy the definition of "employee"  
2 contained in this act. The commission shall establish the rules and  
3 regulations governing the enrollment and effective dates of  
4 coverage of dependents of employees it deems necessary or  
5 desirable. The rules and regulations shall not defer coverage with  
6 respect to any qualified dependent an employee has on the date the  
7 employee's employer becomes a participating employer, provided  
8 the employee was, immediately prior to the date, insured with  
9 respect to the dependent under a group insurance plan of the  
10 employer which was in effect immediately prior to the date. Under  
11 the rules and regulations established by the commission, each  
12 employee shall be given the opportunity to enroll for coverage for  
13 dependents as of the earliest date the employee becomes eligible for  
14 enrollment. With respect to the traditional plan, an employee may  
15 elect to enroll dependents for both basic coverage and major  
16 medical expense coverage but may not enroll for either coverage  
17 alone.

18 b. In the event that the group health plan which covered an  
19 employee or dependents immediately prior to the date the  
20 employee's employer becomes a participating employer provides,  
21 after termination of coverage thereunder, any continuation of  
22 benefits, or would so provide in the absence of coverage pursuant to  
23 this act, no coverage shall be afforded pursuant to this act for any  
24 such expenses (i) which are covered, or which would be covered in  
25 the absence of coverage pursuant to this act, in whole or in part, by  
26 the prior insurance plan or (ii) which may be used in satisfaction of  
27 any deductible requirement under the prior insurance plan to  
28 establish entitlement to the continuation of benefits.

29 c. Each employee shall furnish the Division of Pensions and  
30 Benefits, in the prescribed form, the information necessary on  
31 account of the employee's own coverage and necessary to enroll  
32 dependents. Any employee not desiring coverage at the time the  
33 employee first becomes eligible, shall give the division written  
34 notice of that fact in the form prescribed by the division. The  
35 employee may not enroll thereafter except at the times and under  
36 the conditions prescribed by the commission.

37 d. Any person employed as a substitute teacher by a school  
38 district and who provides evidence of coverage under another health  
39 benefits program may waive coverage for the current school year on  
40 or after the date on which the person becomes an employee eligible  
41 for coverage.

42 e. Multiple coverage in the program as an employee,  
43 dependent, or retiree shall be prohibited and the prohibition shall be  
44 implemented in accordance with the rules and regulations  
45 promulgated by the commission. The provisions of this paragraph  
46 shall be applicable to the State Health Benefits Program and to the  
47 School Employees' Health Benefits Program to the extent not

1 inconsistent with the provisions of sections 31 through 41 of  
2 P.L.2007, c.103 (C.52:14-17.46.1 et seq.).  
3 f. Commencing 90 days after the effective date of section 4 of  
4 P.L. , c. (pending before the Legislature as this bill): if an  
5 employee eligible for health care benefits coverage under the State  
6 Health Benefits Program or the School Employees' Health Benefits  
7 Program while holding a position, office, or employment with the  
8 State or a participating public employer also is eligible for health  
9 care benefits coverage under a health care benefits plan or program  
10 because of service in any other public position, office, or  
11 employment of this State, the employee shall select coverage under  
12 only one such plan or program; and if an employee eligible for  
13 health care benefits coverage under the State Health Benefits  
14 Program or the School Employees' Health Benefits Program while  
15 holding a position, office, or employment with the State or a  
16 participating public employer also is eligible for health care benefits  
17 coverage under a health care benefits plan or program because of  
18 service by the employee's spouse in any public position, office, or  
19 employment of this State, the employee shall select coverage with  
20 the employer or shall select coverage with the plan or program of  
21 the spouse's employer, but not both. This subsection shall be  
22 applicable to the State Health Benefits Program and to the School  
23 Employees' Health Benefits Program. Commencing 90 days after  
24 the effective date of section 4 of P.L. , c. (pending before the  
25 Legislature as this bill), an employee described in this subsection  
26 with more than one position, office, or employment shall not be  
27 eligible for a continuation of any payment in consideration of filing  
28 a waiver of coverage pursuant to section 36 of P.L.1995,  
29 c.259 (C.52:14-17.31a) granted prior thereto or for any waiver of  
30 coverage and payment thereafter.  
31 (cf: P.L.2010, c.2, s.12)

32  
33 5. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended to  
34 read as follows:

35 36. a. Notwithstanding the provisions of any other law to the  
36 contrary, an employer other than the State which participates in the  
37 State Health Benefits Program, established pursuant to P.L.1961,  
38 c.49 (C.52:14-17.25 et seq.), may allow any employee who is  
39 eligible for other health care coverage to waive coverage under the  
40 State Health Benefits Program to which the employee is entitled by  
41 virtue of employment with the employer. The waiver shall be in  
42 such form as the Director of the Division of Pensions and Benefits  
43 shall prescribe and shall be filed with the division. After such  
44 waiver has been filed and for so long as that waiver remains in  
45 effect, no premium shall be required to be paid by the employer for  
46 the employee or the employee's dependents. Not later than the  
47 180th day after the date on which the waiver is filed, the division  
48 shall refund to the employer the amount of any premium previously

1 paid by the employer with respect to any period of coverage which  
2 followed the filing date. An employer other than the State shall  
3 reauthorize each year the allowance to waive coverage.

4 b. Notwithstanding the provisions of any other law to the  
5 contrary, the State as an employer, or an employer that is an  
6 independent authority, commission, board, or instrumentality of the  
7 State which participates in the State Health Benefits Program, may  
8 allow any employee who is eligible for other health care coverage  
9 that is not under the State Health Benefits Program to waive the  
10 coverage under the State Health Benefits Program to which the  
11 employee is entitled by virtue of employment with the employer.  
12 The waiver shall be in such form as the Director of the Division of  
13 Pensions and Benefits shall prescribe and shall be filed with the  
14 division. The State as an employer, or an employer that is an  
15 independent authority, commission, board, or instrumentality of the  
16 State shall reauthorize each year the allowance to waive coverage.

17 c. In consideration of filing a waiver as permitted in  
18 subsections a. and b. of this section, an employer may pay to the  
19 employee, but not to an elected official whose term of office  
20 commenced after the effective date of section 5 of P.L. \_\_\_\_\_,  
21 c. (pending before the Legislature as this bill), annually an  
22 amount, to be established in the sole discretion of the employer,  
23 which shall not exceed 50% of the amount saved by the employer  
24 because of the employee's waiver of coverage, and, for a waiver  
25 filed on or after the effective date of P.L.2010, c.2, which shall not  
26 exceed 25%, or \$5,000, whichever is less, of the amount saved by  
27 the employer because of the employee's waiver of coverage. An  
28 employee who waives coverage shall be permitted to immediately  
29 resume coverage if the employee ceases to be eligible for other  
30 health care coverage for any reason, including, but not limited to,  
31 the retirement or death of the spouse or divorce. An employee who  
32 resumes coverage shall repay, on a pro rata basis, any amount  
33 received from the employer which represents an advance payment  
34 for a period of time during which coverage is resumed. An  
35 employee who wishes to resume coverage shall notify the employer  
36 in writing and file a declaration with the division, in such form as  
37 the director of the division shall prescribe, that the waiver is  
38 revoked. The decision of an employer to allow its employees to  
39 waive coverage and the amount of consideration to be paid therefor  
40 shall not be subject to the collective bargaining process.

41 (cf: P.L.2010, c.2, s.11)

42

43 6. (New section) Notwithstanding the provisions of any other  
44 law to the contrary, commencing 90 days after the effective date of  
45 this section of P.L. \_\_\_\_\_, c. (pending before the Legislature as this  
46 bill): if an employee eligible for health care benefits coverage while  
47 holding a position, office, or employment with an independent State  
48 authority also is eligible for health care benefits coverage under a

1 health care benefits plan or program because of service in any other  
2 public position, office, or employment of this State, the employee  
3 shall select coverage under only one such plan or program; and if an  
4 employee eligible for health care benefits coverage while holding a  
5 position, office, or employment with an independent State authority  
6 also is eligible for health care benefits coverage under a health care  
7 benefits plan or program because of service by the employee's  
8 spouse in any public position, office, or employment of this State,  
9 the employee shall select coverage with the employer or shall select  
10 coverage with the plan or program of the spouse's employer, but not  
11 both, and may be eligible for a payment for a waiver of the  
12 coverage if the employer is outside of the State Health Benefits  
13 Program or School Employees' Health Benefits Program. This  
14 section shall apply also when the health care benefits coverage is  
15 provided through an insurance fund or joint insurance fund or in  
16 any other manner. This section shall apply to a State authority that  
17 is not covered by the provisions of subsection f. of section 7 of  
18 P.L.1961, c.49 (C.52:14-17.31) or section 36 of P.L.1995,  
19 c.259 (C.52:14-17.31a). Commencing 90 days after the effective  
20 date of this section of P.L. , c. (pending before the Legislature  
21 as this bill), an employee described in this section with more than  
22 one position, office, or employment shall not be eligible for a  
23 continuation of any payment in consideration of filing a waiver of  
24 coverage granted prior thereto or for any waiver of coverage and  
25 payment thereafter.

26 As used in this section, "independent State authority" means a  
27 public authority, board, commission, corporation, or other agency  
28 or instrumentality of the State allocated, in but not of, a principal  
29 department of State government pursuant to Article V, Section IV,  
30 paragraph 1 of the New Jersey Constitution, or which is not subject  
31 to supervision or control by the department in which it is allocated,  
32 and a regional authority, but shall not include a college or  
33 university.  
34

35 7. (New section) Notwithstanding the provisions of any other  
36 law to the contrary, commencing 90 days after the effective date of  
37 this section of P.L. , c. (pending before the Legislature as this  
38 bill): if an employee eligible for health care benefits coverage while  
39 holding a position, office, or employment with a local authority also  
40 is eligible for health care benefits coverage under a health care  
41 benefits plan or program because of service in any other public  
42 position, office, or employment of this State, the employee shall  
43 select coverage under only one such plan or program; and if an  
44 employee eligible for health care benefits coverage while holding a  
45 position, office, or employment with a local authority also is  
46 eligible for health care benefits coverage under a health care  
47 benefits plan or program because of service by the employee's  
48 spouse in any public position, office, or employment of this State,



1 the employee shall select coverage with the employer or shall select  
2 coverage with the plan or program of the spouse's employer, but not  
3 both, and may be eligible for a payment for a waiver of the  
4 coverage if the employer is outside of the State Health Benefits  
5 Program or School Employees' Health Benefits Program. This  
6 section shall apply also when the health care benefits coverage is  
7 provided through an insurance fund or joint insurance fund or in  
8 any other manner. This section shall apply to a local authority that  
9 is not covered by the provisions of N.J.S.40A:10-18 or section 37  
10 of P.L.1995, c.259 (C.40A:10-17.1). Commencing 90 days after the  
11 effective date of this section of P.L. , c. (pending before the  
12 Legislature as this bill), an employee described in this section with  
13 more than one position, office, or employment shall not be eligible  
14 for a continuation of any payment in consideration of filing a  
15 waiver of coverage granted prior thereto or for any waiver of  
16 coverage and payment thereafter.

17 As used in this section, "local authority" means an "authority" as  
18 defined under the "Local Authorities Fiscal Control Law," P.L.1983,  
19 c.313 (C.40A:5A-1 et seq.).  
20

21 8. (New section) Notwithstanding the provisions of any other  
22 law to the contrary, a board of education which enters into a  
23 contract providing group health care benefits to its employees  
24 pursuant to P.L.1979, c.391 (C.18A:16-12 et seq.), may allow any  
25 employee who is eligible for other health care coverage, including  
26 an employee described in section 3 of P.L.1979, c.391 (C.18A:16-  
27 14) who is required to select coverage with the employer or  
28 coverage with the spouse's employer, to waive coverage under the  
29 board of education's plan to which the employee is entitled by  
30 virtue of employment with the board of education. The waiver shall  
31 be in such form as the board of education shall prescribe and shall  
32 be filed with the board of education. In consideration of filing such  
33 a waiver, a board of education may pay, or shall pay if the waiver is  
34 provided for in a collective bargaining agreement, to the employee,  
35 but not to an elected official whose term of office commenced after  
36 the effective date of this section of P.L. , c. (pending before the  
37 Legislature as this bill), annually an amount, subject to the  
38 collective bargaining process, because of the employee's waiver of  
39 coverage. An employee who waives coverage shall be permitted to  
40 resume coverage under the same terms and conditions as apply to  
41 initial coverage if the employee ceases to be covered through the  
42 employee's spouse for any reason, including, but not limited to, the  
43 retirement or death of the spouse or divorce. An employee who  
44 resumes coverage shall repay, on a pro rata basis, any amount  
45 received which represents an advance payment for a period of time  
46 during which coverage is resumed. An employee who wishes to  
47 resume coverage shall file a declaration with the board of education

1 in such form as the board of education shall prescribe, that the  
2 waiver is revoked.

3

4 9. Sections 1, 2, 4, 6, 7 and 8 shall take effect immediately and  
5 shall apply to all public employees employed on or after this  
6 effective date, but shall not be deemed to impair the obligations in a  
7 collective negotiations agreement in effect on that date, and sections  
8 3 and 5 shall take effect on the 90<sup>th</sup> day after enactment.

9

10

11

STATEMENT

12

13 This bill limits a public employee of the State, a local government,  
14 or a local board of education, or agency or authority thereof, to  
15 receiving health care benefits coverage from only one public employer  
16 of this State if the employee holds more than one public position  
17 simultaneously. The bill prohibits a public employee so limited from  
18 continuing to receive any payment from the employee's public  
19 employer for waiving the health care benefits coverage provided by  
20 the employer and from waiving any coverage and receiving payment  
21 in the future.

22 If the public employee has a spouse who also is a public employee  
23 eligible for health care benefits coverage from a public employer of  
24 this State, the employee will be required to select coverage with the  
25 employer or with the spouse's employer, but not both. An employee  
26 required to select coverage with the employer or the spouse's  
27 employer will continue to be eligible to waive coverage and receive  
28 payment for the waiver if the employer paying for the waiver of  
29 coverage is outside of the State Health Benefits Program or the School  
30 Employee's Health Benefits Program and if the employer provides  
31 such waivers.

32 The bill also changes eligibility for payments for waiving health  
33 care benefits coverage by providing that a local elected official whose  
34 term of office commences after the effective date of the bill will not be  
35 eligible for a payment in consideration for filing a waiver of any health  
36 care benefits coverage. Also, the bill requires public employers to  
37 annually reauthorize the allowance of waivers. Current law limits  
38 payments for waiver of health care benefits coverage filed after May  
39 21, 2010 to an amount, established by the employer that does not  
40 exceed 25 percent, or \$5,000, whichever is less, of the amount saved  
41 by the employer because of the employee's waiver of coverage.

42 The bill provides that a board of education that offers health care  
43 benefits will be able to allow any employee who is eligible for other  
44 health care coverage to waive coverage under the board of education's  
45 plan, and may offer to its employees, but not to an elected official  
46 whose term of office commenced after the effective date of the bill, a  
47 payment amount subject to the collective bargaining process. The bill

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- 1 requires the payment if it is provided for in a collective bargaining
- 2 agreement.